

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 673

Introduced by Senator Lara

February 27, 2015

An act to amend Section ~~40001~~ 25187.2 of, to add Sections 25200.21 and 25200.23 to, and to add and repeal Article 8.8 (commencing with Section 25199.20) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to ~~nonvehicular air pollution~~ hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, Lara. ~~Air districts: rules and regulations.~~ Hazardous waste.

(1) *The Hazardous Waste Control Law, among other things, authorizes the Department of Toxic Substances Control to regulate the generation and disposal of hazardous waste.*

This bill would establish, until January 1, 2021, the DTSC Community Oversight Committee within the department and require the committee to make recommendations to the department to increase public participation in, and the transparency of, the department's decisionmaking, and to serve as a resource and liaison for communities and residents in communication with the department. The bill would require the department, by July 1, 2018, to adopt additional criteria, as specified, for use in determining whether to issue a new hazardous waste facilities permit or a renewal of a hazardous waste facilities permit, and to develop and implement programmatic reforms designed to improve the protectiveness, timeliness, legal defensibility, and enforceability of the department's permitting program.

(2) *Existing law authorizes the Department of Toxic Substances Control to issue an order under the hazardous waste control laws*

requiring that a violation be corrected and imposing a civil penalty to specified persons, including a person who has violated various provisions regulating hazardous waste or provisions concerning removal and remedial actions for hazardous substance releases. A person who is issued that order is required to pay for oversight of the removal or remedial action. The existing Carpenter-Presley-Tanner Hazardous Substance Account Act, authorizes the department to take or oversee removal and remedial actions related to the release of hazardous substances.

This bill would require a person to pay for oversight of any corrective action required of the person with respect to hazardous waste.

~~Existing law requires air pollution control and air quality management districts to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emissions sources under their jurisdiction and requires those districts to enforce all applicable provisions of state and federal law.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25187.2 of the Health and Safety Code
- 2 is amended to read:
- 3 25187.2. If a ~~removal or remedial action order issued pursuant~~
- 4 ~~to Section 25187 to a potentially responsible party~~ requires a person
- 5 is required to take corrective action with respect to hazardous
- 6 waste, that person shall pay for oversight of the ~~removal or~~
- 7 ~~remedial~~ corrective action. This section does not prohibit the
- 8 department or unified program agency from assessing any other
- 9 penalty or recovering any costs for oversight of a removal or
- 10 remedial action, pursuant to any other provision. Nothing in this
- 11 section limits the due process requirements of Section 25187.
- 12 SEC. 2. Article 8.8 (commencing with Section 25199.20) is
- 13 added to Chapter 6.5 of Division 20 of the Health and Safety Code,
- 14 to read:

Article 8.8. *DTSC Community Oversight Committee*

25199.20. (a) *There is hereby established in the department, the DTSC Community Oversight Committee composed of 13 members representing California residents affected by hazardous waste. The committee members shall not include representatives from the department or an entity regulated by the department pursuant to this chapter.*

(b) *Members of the committees shall be appointed as follows:*

(1) *Five members appointed by the Secretary for Environmental Protection.*

(2) *Four members appointed by the Senate Committee on Rules.*

(3) *Four members appointed by the Speaker of the Assembly.*

(c) *Each member of the committee shall serve at the pleasure of his or her appointing authority.*

(d) *Beginning March 1, 2016, the committee shall meet at least three times during that year, then quarterly beginning in the 2017 calendar year.*

(e) *The committee shall do both of the following:*

(1) *Make recommendations for changes in policies, procedures, and standards of the department to increase public participation in, and the transparency of, the department's decisionmaking, including providing input to the director on ways to improve the department's permitting of hazardous waste facilities and enforcement actions, particularly with regard to public participation and in communities identified pursuant to Section 39711 that are burdened by multiple sources of pollution.*

(2) *Serve as a resource and liaison for communities and residents in communication with the department, including reviewing the department's current efforts and providing input to the director on ways to improve the department's outreach to, and communication with, communities and stakeholders, to increase public participation in, and the transparency of, the department's permitting process.*

(f) *The department shall provide the committee with appropriate per diem compensation consistent with Section 19822.5 of the Government Code.*

25199.21. *This article shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted*

1 statute, that is enacted before January 1, 2021, deletes or extends
2 that date.

3 SEC. 3. Section 25200.21 is added to the Health and Safety
4 Code, to read:

5 25200.21. On or before January 1, 2018, the department shall
6 adopt regulations establishing additional criteria that the
7 department shall use to determine whether to issue a new permit
8 or a renewal of a permit pursuant to this article. These criteria
9 shall include, but are not limited to, all of the following:

10 (a) Number and types of past violations that will result in a
11 denial.

12 (b) The vulnerability of, and existing health risks to, nearby
13 populations. Vulnerability shall be assessed using the
14 CalEnviroScreen tool, local and regional health risk assessments,
15 the region's federal Clean Air Act attainment status, and other
16 indicators of community vulnerability, cumulative impact, and
17 potential risks to health and well-being.

18 (c) Minimum setback distances from sensitive receptors, such
19 as schools, child care facilities, residences, hospitals, elder care
20 facilities, and other sensitive locations.

21 (d) Evidence of financial responsibility, qualifications of
22 ownership, and continuity of ownership and operation.

23 (e) Provision of financial assurances pursuant to Section
24 25200.1.

25 (f) Training of personnel in the safety culture and plans,
26 emergency plans, and maintenance of operations.

27 SEC. 4. Section 25200.23 is added to the Health and Safety
28 Code, to read:

29 25200.23. On or before July 1, 2018, the department shall
30 develop and implement programmatic reforms designed to improve
31 the protectiveness, timeliness, legal defensibility, and enforceability
32 of the department's permitting program, including strengthening
33 environmental justice safeguards, enhancing enforcement of public
34 health protections, and increasing public participation and
35 outreach activities. In accomplishing these reforms, the department
36 shall do all of the following:

37 (a) Establish transparent standards and procedures for
38 permitting decisions, including those that are applicable to permit
39 revocation and denial.

1 ***(b) Establish terms and conditions on permits to better protect***
2 ***public health and the environment, including in imminent and***
3 ***substantial endangerment situations.***

4 ***(c) Employ consistent procedures for reviewing permit***
5 ***applications, integrating public input into those procedures, and***
6 ***making timely permit decisions.***

7 ***(d) Enhance public involvement using procedures that provide***
8 ***for early identification and integration of public concerns into***
9 ***permitting decisions, including concerns of communities identified***
10 ***pursuant to Section 39711.***

11 **SECTION 1.** Section 40001 of the Health and Safety Code is
12 **amended to read:**

13 **40001. (a)** ~~Subject to the powers and duties of the state board,~~
14 ~~the districts shall adopt and enforce rules and regulations to achieve~~
15 ~~and maintain the state and federal ambient air quality standards in~~
16 ~~all areas affected by emission sources under their jurisdiction, and~~
17 ~~shall enforce all applicable provisions of state and federal law.~~

18 ~~(b) The district rules and regulations may, and at the request~~
19 ~~of the state board shall, provide for the prevention and abatement~~
20 ~~of air pollution episodes that, at intervals, cause discomfort or~~
21 ~~health risks to, or damage to the property of, a significant number~~
22 ~~of persons or class of persons.~~

23 ~~(c) Prior to adopting a rule or regulation to reduce criteria~~
24 ~~pollutants, a district shall determine that there is a problem that~~
25 ~~the proposed rule or regulation will alleviate and that the rule or~~
26 ~~regulation will promote the attainment or maintenance of state or~~
27 ~~federal ambient air quality standards.~~

28 ~~(d) (1) The district rules and regulations shall include a process~~
29 ~~to approve alternative methods of complying with emission control~~
30 ~~requirements that provide equivalent emission reductions,~~
31 ~~emissions monitoring, or recordkeeping.~~

32 ~~(2) A district shall allow the implementation of alternative~~
33 ~~methods of emission reduction, emissions monitoring, or~~
34 ~~recordkeeping if a facility demonstrates to the satisfaction of the~~
35 ~~district that those alternative methods will provide equivalent~~
36 ~~performance. An alternative method of emission reduction,~~
37 ~~emissions monitoring, or recordkeeping proposed by the facility~~
38 ~~shall not violate other provisions of law.~~

39 ~~(3) If a district rule specifies an emission limit for a facility or~~
40 ~~system, the district shall not set operational or effectiveness~~

1 requirements for any specific emission control equipment operating
2 on a facility or system under that limit. An alternative method of
3 emission reduction, emissions monitoring, or recordkeeping
4 proposed by the facility shall include the necessary operational
5 and effectiveness measurement elements that can be included as
6 permit conditions by the district to ensure compliance with, and
7 enforcement of, the equivalent performance requirements of
8 paragraphs (1) and (2). Nothing in this subdivision limits the
9 district's authority to inspect a facility's equipment or records to
10 ensure operational compliance. This paragraph shall apply to
11 existing rules and facilities operating under those rules.